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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Written statement submitted by Robert F. Kennedy Memorial Center for Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[28 March 1996]

1. "The Commission on Human Rights, in its resolution 1995/51, requested the Secretary-General to extend the mandate of the independent expert, Ms. Monica Pinto (Argentina), so that she might continue to examine the situation of human rights in Guatemala, provide assistance to the Government in the field of human rights, and submit to the Commission at its fifty-second session a report evaluating the measures taken by the Government in accordance with the recommendations made to it. The Commission decided to consider the question at its fifty-second session under the appropriate agenda item." (E/CN.4/1996/1/Add.1, para. 10)

2. The Government of new Guatemalan President Alvaro Arzú Irigoyen and the Guatemalan National Revolutionary Unity (URNG) are undertaking important initiatives designed to put an end to 35 years of armed conflict, which has caused great suffering to the Guatemalan people. At this delicate moment in Guatemalan history, when an unprecedented opportunity exists to achieve a negotiated end to the armed conflict, it is particularly important that the international community do everything possible to ensure the success of this effort. Maintaining the oversight of the Commission's independent expert is essential for the improvement of the human rights situation in Guatemala at this critical juncture.

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3. The independent expert's report on the situation of human rights in Guatemala, pursuant to Commission resolution 1995/51, and her evaluation of the measures taken by the Guatemalan Government in accordance with the recommendations made in her report have served as an invaluable complement to the work of the United Nations Mission in Guatemala (MINUGUA).

4. The new Guatemalan Government has publicly stated that it intends to respect human rights and has taken some important initial steps in this direction; however, it is far too soon to evaluate the effectiveness of the steps it has taken, particularly in light of the history of previous reform efforts that have been short-lived or failed to accomplish their goals.

5. The independent expert's report, as well as the reports of MINUGUA, indicate that extremely serious human rights violations continue unabated. Indeed, the independent expert found the human rights situation qualitatively worse in 1995 than in 1994. Summary executions took place "at an alarming rate". In October 1995, Guatemalan soldiers opened fire on unarmed civilians in the "Xaman" returnee community. Eleven civilians were killed, including a child who was executed after he had been wounded. These summary executions carried out by the army were reminiscent of an earlier period in the Guatemalan conflict. Although MINUGUA and Guatemalan human rights organizations were able to carry out prompt investigations, the official investigation was delayed and inadequate.

6. During the first weeks of the new Government, cases of threats, abduction or torture of individuals active in journalism, labour unions and human rights have been reported. Investigations of human rights violations continue to be grossly inadequate; those who seek justice in these cases often find themselves the subject of threats or attacks. MINUGUA itself has been subject to threats and attack. Experience in other countries suggests that the human rights situation is likely to remain extremely delicate as the peace process draws closer to a conclusion, making continued oversight essential.

7. MINUGUA is performing a very important role in Guatemala pursuant to the Global Agreement on Human Rights, which gives it responsibility for monitoring compliance with the terms of the accord and for working to strengthen Guatemalan institutions designed to guarantee human rights. The seriousness of the human rights situation in Guatemala after more than a year of MINUGUA's presence underscores the continuing need for this Commission's oversight through the reports and recommendations of the independent expert. MINUGUA is a product of the negotiations between the Government of Guatemala and URNG. The Global Agreement on Human Rights calls for MINUGUA to focus on certain civil and political rights and to engage in verification of possible human rights violations occurring after its establishment to determine whether violations have occurred, make recommendations and assist in strengthening the Guatemalan institutions charged with protection of human rights.

8. The mandate of the independent expert is broader than that of MINUGUA: the legal parameters for her reports to the Commission are found in the Universal Declaration of Human Rights, customary international human rights laws, and all of the international treaties to which Guatemala is a party. The independent expert's mandate requires, in addition to providing assistance in the field of human rights, examination of the human rights situation in

Guatemala and evaluation of the measures taken by the Government of Guatemala in response to the expert's recommendations. The recommendations of the independent experts named by the Commission remain largely unfulfilled.

9. With a view to hastening the day when Guatemala will no longer need such intense international oversight of its human rights situation, the Commission should maintain the mandate of the independent expert. It is essential that she continue to serve these vital functions during this critical period in Guatemalan history, complementing the work of MINUGUA, and assisting Guatemala's new Government in its effort to guarantee human rights. Because of the extremely serious human rights violations continuing to occur in Guatemala - including summary executions, abductions and death threats - and the failure of State institutions to provide an adequate response, it would be a grave mistake for the international community to change the mandate of the independent expert at this critical moment.